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IN THE UNITED STATES DISTRICT COURTS

FOR THE EASTERN DISTRICT OF CALIFORNIA

AND THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES

PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE

**RALPH COLEMAN, et al.,**

Plaintiffs,

**v.**

**EDMUND G. BROWN JR., et al.,**

Defendants.

2:90-cv-00520 LKK JFM P

**THREE-JUDGE COURT**

**MARCIANO PLATA, et al.,**

Plaintiffs,

**v.**

**EDMUND G. BROWN JR., et al.,**

Defendants.

C01-1351 TEH

**THREE-JUDGE COURT**

**DECLARATION OF KATHLEEN  
 ALLISON IN SUPPORT OF  
 DEFENDANTS' RESPONSE TO APRIL  
 11, 2013 ORDER REQUIRING LIST OF  
 PROPOSED POPULATION REDUCTION  
 MEASURES; COURT-ORDERED PLAN**

1 I, Kathleen Allison, declare as follows:

2 1. I am the Deputy Director of the Division of Adult Institutions (DAI), Facilities  
3 Support, for the California Department of Corrections and Rehabilitation (CDCR). I submit this  
4 declaration in support of the State's response to the April 11, 2013, order requiring a list of  
5 proposed population reduction measures.

6 2. I began working for CDCR in 1987 as a Medical Technical Assistant and promoted to  
7 a Senior Medical Technical Assistant in 1993. I became a community resources manager in  
8 1996, where I managed various inmate programs including religion, Arts in Corrections,  
9 Inmate/Family Services, and substance abuse programs such as Alcoholics Anonymous. I served  
10 one year as the Litigation Coordinator at Avenal State Prison. In 2002, I became a Correctional  
11 Health Services Administrator II at the California Substance Abuse and Treatment Facility, with  
12 responsibility for health care budgets, contract management, personnel, and disciplinary matters.  
13 I also acted as health care manager at that institution, overseeing delivery of health care to  
14 inmates. In 2004, I became an Associate Warden, overseeing the custody staff and operations on  
15 Level II General Population yards, a Sensitive Needs Yard, and Administrative Segregation units;  
16 managing various litigation compliance efforts; and overseeing areas including Business Services,  
17 Health Care Access Unit, Case Records and Religious Services. In 2007, I became Chief Deputy  
18 Warden, at which time my duties expanded to include oversight of all staff in the institution, with  
19 primary coordination of all clinical services and custodial functions of the institution. In 2009, I  
20 was appointed Warden and became responsible for the safety and security of all the inmates, staff,  
21 and visitors to the institution. Among my duties was coordination with staff in the handling of  
22 the care, discipline, custody, and employment of inmates. In November 2011, I was named  
23 Associate Director for the Division of Adult Institutions. My duties included providing  
24 managerial direction to wardens who reported to me, implementing the Alternative Custody  
25 Program, and managerial direction of various community-based programs providing services to  
26 offenders and their children. I promoted to Deputy Director in approximately April 2012.

27 3. Some of my current duties as Deputy Director for the DAI include oversight of the  
28 following: inmate case records administration; inmate classification unit; budgeting; statewide

1 inmate transportation unit; prison bed management; fiscal planning and development; staffing  
2 standardization; institutional audits; and policy and procedure standardization. The Policy and  
3 Procedure Standardization Unit is primarily responsible for CDCR headquarters review of  
4 Coleman compliance for DAI.

5 Proposition 36 Inmate Reduction Efforts

6 4. Proposition 36 amended California's "Three Strikes" sentencing law so that a life  
7 sentence may only be imposed where the third-strike felony is serious or violent. Proposition 36  
8 allows for resentencing of inmates currently serving a life term where their third strike was not  
9 serious or violent, so long as resentencing does not pose an unreasonable public risk.

10 5. In his declaration, at page 10, lines one through four, Plaintiff's expert James Austin  
11 suggests that CDCR expedite the release of all inmates in the Proposition 36 class and ignore  
12 state law requiring inmates to petition the superior court for resentencing. Such a release is  
13 entirely outside of CDCR's control. California law requires the inmates, not the state, to file  
14 petitions seeking resentencing.

15 6. CDCR has made every effort to inform and encourage eligible inmates to petition the  
16 superior court for resentencing pursuant to Proposition 36. Specifically, CDCR has posted  
17 information in all prisons with addresses for the courts and county public defenders. CDCR has  
18 provided to the county public defenders and district attorneys lists of all eligible offenders under  
19 Proposition 36.

20 7. Likewise, CDCR has provided the State Administrative Office of the Courts an  
21 estimate of the likely number of eligible cases to assist the courts in planning their calendars.  
22 CDCR is working closely with the superior courts, the district attorneys, and criminal defense  
23 attorneys to expedite the production of records that will be used in resentencing hearings. I  
24 review regular reports from the field tracking record requests for Proposition 36 eligible inmates.  
25 As of April 22, 2013, CDCR has turned over records requested for 2077 inmates for Proposition  
26 36 resentencing purposes.

27 8. I have reviewed regular reports regarding the case status of the Proposition 36 inmate  
28 class. As of April 22, 2013, 377 inmates have been released as a result of Proposition 36

1 resentencing. Another 224 inmates currently have out-to-court dates scheduled for resentencing  
2 proceedings. CDCR expects that resentencing will reduce the prison population by  
3 approximately 900 inmates by December 2013.

4 9. Mr. Austin estimates that, of the 2800 eligible inmates, approximately 2200 inmates  
5 will ultimately receive a release from CDCR via resentencing. However, this estimation is purely  
6 speculative. For instance, in Los Angeles County, where more than one third of the eligible  
7 Proposition 36 inmates will be re-sentenced, the courts have opted to process the petitions  
8 unopposed by the district attorney first. The denial rate from Los Angeles County will likely go  
9 up over time as the contested cases are brought before the courts.

10 10. Accepting Mr. Austin's plan – to release all the eligible Proposition 36 inmates  
11 without waiting for them to seek a resentencing hearing – would pose a serious risk to public  
12 safety. Under current law, the courts may undertake a public safety assessment at the time of  
13 resentencing. Public safety risks are best illustrated by the criminal behaviors engaged in by  
14 Proposition 36 eligible inmates while in custody. Eligible inmates participate in prison violence,  
15 including assaults, batteries, and threats towards staff and other inmates. Eligible inmates  
16 participate in drug trafficking and gang behavior. One such inmate committed a murder while in  
17 prison. The county declined to prosecute and the inmate is being held in the Segregated Housing  
18 Unit (SHU). In fact, based on my review, there are currently 113 inmates housed in a SHU  
19 within CDCR that are Proposition 36 eligible, indicating that they have committed a violation of  
20 Title 15 while serving their sentence.

21 11. Implementing Mr. Austin's plan to unilaterally release all Proposition 36 eligible  
22 inmates would also take time. CDCR would have to seek legislative approval to release over two  
23 thousand inmates while avoiding the superior courts. The legislature may be resistant to  
24 overriding a voter approved initiative. To amend the statute, the legislature would require a two  
25 thirds vote. Article I, Section 28(f)(5) of the California Constitution would also need to be  
26 amended in light of victim's rights laws prohibiting the early release of inmates for population  
27 reduction measures. Such an amendment would require a two thirds vote of the legislature. In  
28 order for CDCR to properly screen inmates to be released pursuant to Proposition 36, CDCR will

1 have to ask the Board of Parole Hearings to evaluate inmates on a case by case basis with an eye  
2 to public safety risks. Such efforts to amend the law and to create a Board of Parole Hearing  
3 process would likely take as long as or longer than the current Proposition 36 process.

4 I declare under penalty of perjury under the laws of the State of California and the United  
5 States of America that the foregoing is true and correct. Executed in Sacramento, California on  
6 April 29, 2013.

7  
8 /s/ Kathleen Allison

9 Kathleen Allison  
10 Deputy Director of the Division of Adult Institutions

11 *(original signature retained by attorney)*  
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